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PUBLIC UTILITIES
COMMISSION

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FILED

BEFORE THE PUBLIC UTILITIES COMMISSION
OF THE STATE OF HAWAII

In the Matter of)

PUBLIC UTILITIES COMMISSION)

DOCKET NO. 2008-0273

Instituting a Proceeding to Investigate the)
Implementation of Feed-in Tariffs.)

DIVISION OF CONSUMER ADVOCACY'S
COMMENTS ON HAWAIIAN ELECTRIC COMPANY, INC.,
HAWAII ELECTRIC LIGHT COMPANY, INC.,
AND MAUI ELECTRIC COMPANY, LTD.'S PROPOSED SCHEDULE FIT

Pursuant to the Order Setting Schedule filed on October 29, 2009, the Division of Consumer Advocacy ("Consumer Advocate") hereby submits the following comments on the proposed Schedule FIT filed by Hawaiian Electric Company, Inc., Hawaii Electric Light Company, Inc., and Maui Electric Company, Ltd. (collectively, "the HECO Companies") on January 7, 2010.

I. COMMENTS.

The Consumer Advocate's comments are not comprehensive. The following observations and discussion touch upon only certain issues or areas. The Consumer

Advocate anticipates that additional comments may be better supported once additional information is available as the FIT program is implemented and more experience highlights areas and/or items that require modification.

The Consumer Advocate understands that the HECO Companies' proposed Schedule FIT is intended to support the procurement of renewable energy¹ from the typical or average renewable energy project that is reasonably cost-effective for the HECO Companies and its ratepayers.² The Consumer Advocate further understands that the HECO Companies' proposed Schedule FIT energy-payment rates are intended to provide energy prices that allow an eligible renewable energy project developer to recover the reasonable costs associated with a project's development plus the opportunity to earn a profit on their investment.³

The Consumer Advocate believes that, based upon the representations made by the HECO Companies in its filing submitted on January 7, 2010 (transmitting the Schedule FIT for review and consideration by the Commission) and the Consumer Advocate's participation in a technical session attended by the Parties on November 18, 2009, the HECO Companies developed its Feed-in Tariff ("FIT") payment rates based upon the model produced by its retained technical consultant, Environmental Economics, Inc. ("E3") and the work by E3 and Mirenish Consulting,

¹ See In re Public Utilities Commission, Decision and Order, Docket No. 2008-0273, at 15-17 (filed Sept. 25 2009) (suggesting that feed-in tariffs ("FITs") should be adopted in Hawaii to accelerate the acquisition of energy from renewable resources).

² See In re Public Utilities Commission, Decision and Order, Docket No. 2008-0273, at 62 (stating that FIT rates should support the typical or average project that is reasonably cost-effective).

³ Feed-in Tariffs: Best Design Focusing Hawaii's Investigation, Docket No. 2008-0273, at 5 (filed on Dec. 11, 2008); see also In re Public Utilities Commission, Decision and Order, Docket No. 2008-0273, at 62-63 (stating that FIT rates should support the typical or average project that is reasonably cost-effective).

which was also retained by the HECO Companies to help develop the initial FIT rates. Using the modified levelized cost of energy ("LCOE") model referenced by the HECO Companies in its filing submitted on January 7, 2010 (which model was also discussed at the technical session attended by the Parties on November 18, 2009), the HECO Companies came up with varying price scenarios for the cost of energy procured under the FIT. In its proposed FIT pricing scheme, the HECO Companies appear to have selected FIT prices for each eligible technology that are somewhere between the minimum and maximum values calculated by the E3 modified LCOE model.

The Consumer Advocate notes that the collaborative process, which included the open availability of the HECO Companies' LCOE model, facilitated lively discussion among the interested stakeholders in the instant proceeding. The expected results from the instant proceeding represents an important contribution to Hawaii's intent to migrate towards an economy that is less reliant on imported fossil fuels. The Consumer Advocate is aware of the importance of establishing reasonable initial rates. If the rates are too low, it is possible that there will be insufficient interest by potential project developers which might also lead to reduced support and interest in the FIT program. On the other hand, if rates are set too high, due to the long-term nature of the proposed FIT agreements (20 years), electric utilities' customers will be asked to bear a burden that will persist for some time.

The Consumer Advocate believes that with the current level of Hawaii-specific information available on the subject, the E3 modified LCOE model appears to represent a fair approach to establishing a range of prices for energy procured under the FIT. The Consumer Advocate agrees that the price for energy procured under the FIT should be

high enough to incentivize participation in the FIT program without requiring the HECO Companies' ratepayers to support (A) cost-ineffective renewable energy projects or (B) FIT payment rates that include unreasonable (i.e., windfall) profits for eligible project developers. At this initial stage in FIT development and program execution, the Consumer Advocate is willing to state that the HECO Companies' proposed FIT rates appear to be calculated to allow an eligible renewable energy project developer to recover the reasonable costs associated with their project's development plus an opportunity to earn a profit on their investment. As more information is gathered upon eligible FIT projects and the Commission has an opportunity to consider other components of the HECO Companies' overall strategic corporate plan, the Consumer Advocate believes that the FIT rates can and will be adjusted to account for the new realities observed on the HECO Companies' systems.

The Consumer Advocate is, and remains, hopeful that more Hawaii specific data will be made available for use in the development of FIT rates. There is some concern that the reliance on industry data for LCOE inputs may not reasonably represent costs that will be incurred by project developers in Hawaii. Some of the differences may reflect costs that are greater in Hawaii and other differences might reflect costs that are less in Hawaii. Thus, adjustments may be necessary to the LCOE cost inputs to more accurately represent Hawaii specific costs. The Consumer Advocate is, however, concerned that the focus of any such efforts might only be one-sided. For instance, if many comments identify certain cost inputs that are too low and steps are taken to address those comments, the resulting rates will increase without considering the possibility that other costs inputs may be too high. As already mentioned, the ability to

evaluate the reasonableness of the LCOE cost inputs is impaired by the lack of Hawaii specific experience and data. So, the Consumer Advocate anticipates the need for additional comment and modifications when more experience and data become available.

Until then, the Consumer Advocate contends that, lacking other reliable sources of data, that the HECO Companies' proposed FIT rates represents a reasonable middle course in hopefully encouraging participation in the HECO Companies' FIT program without requiring the HECO Companies and its ratepayers to support renewable energy projects that are cost-ineffective or provide project developers with an opportunity to earn an unreasonably high return on their investment.

The Consumer Advocate acknowledges that sufficient incentive must be made available to potential developers. Otherwise, inadequate response by developers will not aid Hawaii's transition to a clean energy economy. During these current economic conditions, however, adequate care must be taken to avoid setting FIT rates that may unnecessarily prolong Hawaii's current economic doldrums.

Of course, the Consumer Advocate notes that its support for the HECO Companies' FIT pricing scheme could change if new information becomes available with respect to FIT projects or FIT program participation.

II. OTHER COMMENTS.

- Currently, section L(3), *Security Deposit*, does not identify a specific rate or the amount that will be required. Some consideration might be given to whether a rate per kw can be identified to help potential developers

assess the possible costs that might be incurred. With no identified rate for this deposit, even assuming that the developer anticipates successfully completing the project, it might be difficult to identify the necessary amount of capital that will be necessary at the onset of the project for planning purposes. This observation can be generally applied to any section that does not specifically lay out up-front rates and/or requirements. If such terms and/or conditions are not clearly and readily identified in the tariff, the functionality of having FIT rates is reduced since potential developers will need to engage in possibly lengthy interaction with the HECO companies to determine the applicable terms and conditions of a project.

- Section K may need to be clarified since it currently states that “any fees and security deposits...will be forfeited” should a project not be completed within an allowed timeframe. Yet, sections L(2) and L(3) identifies refundable fees, whereas sections L(1) and L(4) identify non-refundable fees and charges. While the Commission's Decision and Order filed on September 24, 2009 in the instant docket correctly identifies the need to ensure frivolous projects do not take up queue spots, the Commission specifically refers to an application fee. The HECO Companies' proposal to have forfeitable reservation fees and security deposits may require further analysis.
- While mindful that the Commission's Decision and Order filed on September 25, 2009, required a “postage stamp” approach to the initial

FIT, additional consideration should be given to location-differentiated rates to not only recognize different costs on each island, but also as a means to encourage potential project developers to consider project locations that might reflect policy objectives. For instance, if the proposed 15% limitation on a circuit is adopted and imposed, circuits that are used to serve a robust mix of residential and commercial customers might already exceed or will quickly approach that limit. In those instances, customers who are interested in participating at either the Tier 1 or 2 levels are likely to find the requirement of an interconnection study cost prohibitive. To encourage developers to consider locations and/or circuits that are not likely to soon approach the proposed 15% limitation, the development of location-differentiated rates might provide a means by which to address this potential problem. Given the Commission's Decision and Order filed on September 25, 2009, the Consumer Advocate acknowledges that location-differentiated rates are not appropriate at this time, but believes further consideration should be allocated towards this matter to facilitate discussion at the next feasible opportunity to revisit the reasonableness of the FIT rates and possible modifications.

III. CONCLUSION.

Understanding that the documents proposed by the HECO Companies on or about January 7, 2010 are intended to be standard form tariffs and power purchase agreements ("PPAs") by design, the Consumer Advocate finds that most of the

provisions described in the proposed Schedule FIT track the language used in most PPAs executed by the HECO Companies to procure energy in its normal utility operations. Accordingly, other than as discussed above, the Consumer Advocate has no objections to the provisions included in the HECO Companies' proposed Schedule FIT.

DATED: Honolulu, Hawaii, January 21, 2010.

Respectfully submitted,

By Dean Nishina
DEAN NISHINA
Executive Director

DIVISION OF CONSUMER ADVOCACY

CERTIFICATE OF SERVICE

I hereby certify that I have served copies of the foregoing **DIVISION OF CONSUMER ADVOCACY'S COMMENTS ON HAWAIIAN ELECTRIC COMPANY, INC., HAWAII ELECTRIC LIGHT COMPANY, INC., AND MAUI ELECTRIC COMPANY, LTD.'S PROPOSED SCHEDULE FIT** upon the following parties, by hand delivery and/or U.S. mail, postage prepaid, and properly addressed:

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